



# ITG News

Keeping First Nations Informed



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## Message From The Director



We recently released our Work Plan for Fiscal Year 2005, and posted a copy to our web site at [www.irs.gov/tribes](http://www.irs.gov/tribes). We have shared the Work Plan each year, in order to provide our customers with information on where we will be focusing added attention during the current year. This includes emphasis we will place on certain issues, and added efforts we will undertake in education and examinations.

I am often asked how we determine the areas where we will place added focus. This is a complex process that involves considerable judgment, but much of the information required to make those determinations are based on a combination of customer feedback in our annual survey, changing demographic and economic trends within Indian country, and fairness. This latter factor, fairness, is often misunderstood, but principally involves our need to ensure that all Tribes are treated equally with other types of governmental entities, as well as with each other.

For the current fiscal year, we will be placing added emphasis on the issues associated with tribal gaming. This includes adherence with Title 31 requirements (anti money laundering statutes), tip income reporting compliance, and information reporting in the areas of gaming payouts to patrons and expenditure of gaming proceeds by the Tribe. Our work will include a combination of enhanced outreach, as well as focused Compliance Checks and examinations.

The emphasis placed on gaming issues does not mean that we will ignore other issues and needs. We recognize that many Tribes do not have gaming, and that those who do have gaming also have numerous other tribal enterprises and tax issues. We will continue to address those issues and needs.

As always, I am available to discuss any concerns you may have that cannot be resolved with my local staff. I can be reached at 202-283-9800.

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Christie Jacobs



## IRS Tribal Consultation Policy Update

In April 2003 we embarked upon a journey to develop an IRS Tribal Consultation Policy in conformance with the requirements of Executive Order 13175. We held 12 regional listening meetings, utilized a joint IRS Tribal drafting committee, and recently solicited feedback from tribal leaders on a draft policy that was developed through these efforts.

We are now in the final stages, and expect to have a policy published in the Federal Register in the near future. While we recognize that the final policy cannot satisfy everyone's interests, we are confident that the process we employed have maximized the opportunity for input, and will provide Tribes the communication mechanisms to be able to raise issues of interest to them at any time.

We wish to thank everyone who participated in the listening meetings, provided suggestions and feedback, and helped to create the draft policy. This effort has truly been an example of the effective exercise of government-to-government relations.

## Customer Satisfaction Survey Results

The office of Indian Tribal Governments recently completed its second annual Customer Satisfaction survey. We received responses from 195 Tribes, an increase of 43% from the 2003 survey. Our appreciation to everyone who took time to provide us with valuable feedback on our operations. A report on the results of the survey is posted to our Internet site at [www.irs.gov/tribes](http://www.irs.gov/tribes).

In general, overall satisfaction rose from 68% to 70%, while dissatisfaction dropped from 10% to 3%. While these results indicate improvements have been made, the survey also showed several areas where we need to place added efforts.

One of those areas involves the clarity of our forms and publications. We have already started work to improve Publication 4268, our on-line Employment Tax Desk Guide for Tribal Governments. We are also involved in a redesign of Form 941, the Employer's Quarterly Federal Tax Return, in the hope that we can streamline the form and improve its design. Since that form involves all employers, and the Social Security Administration, the revision process will be lengthy and a new form may not be implemented for some time.

Another area for improvement is our need to ensure fairness in addressing issues with Tribes, in other words, to take actions that reassure Tribes that we are addressing similar issues with ALL Tribes at approximately the same time. While that has been our objective, we will be redoubling our efforts to ensure equity exists.

Although the Customer Satisfaction Survey is done on an annual basis, we welcome your feedback at any time. Comments and/or suggestions can be submitted to us at [tege.ask.itg@irs.gov](mailto:tege.ask.itg@irs.gov).

# TRIBAL LEADERS

## Don't leave Federal dollars on the table

### Help working Native families claim the Earned Income Tax Credit (EITC)!

Every year, millions of EITC dollars go unclaimed in Native communities. Families may qualify for refunds from \$390 to \$4,300 in the 2004 tax year, depending on their amount of earned income and number of qualifying children. You can help members of your community claim the EITC refund through their income tax returns.



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### *Launch an EITC Outreach Campaign*

Download free resources at [www.eitc.info/native](http://www.eitc.info/native) to help get the word out to eligible families who are not currently claiming the EITC. You can organize a local coalition to:

- Run public service announcements and articles in local newspapers
- Include an EITC notice in employees' paychecks and W-2 statements
- Distribute flyers through housing and other service providers

### *Publicize Free Tax Preparation Sites*

Help consumers find free tax preparation sites to maximize their refund value. Obtain Volunteer Income Tax Assistance (VITA) locations near your community by calling 1-800-829-1040. Or e-mail the county and state of desired locations to [donna.lancaster@irs.gov](mailto:donna.lancaster@irs.gov). Please contact sites directly to confirm operation hours and assistor availability.

### *Host EITC Workshops*

Educate consumers about the EITC by recruiting financial education providers in your community to conduct workshops using a new workbook called *Building Native Communities: A Guide to Claiming the EITC* produced by First Nations Development Institute and the Annie E. Casey Foundation. For free copies, contact First Nations at 540-371-5615 or [info@firstnations.org](mailto:info@firstnations.org) or visit [www.firstnations.org](http://www.firstnations.org)



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## Casino Technology Advances Must Meet Anti-Money Laundering Statute Requirements

Technological advances continue in the gaming industry – new types of electronic games, improved player tracking systems, automated payout and reporting systems, and improved security and surveillance systems. All of these advances can improve operations. However, it is important to ensure that these advances do not bring risk to the casino operation, specifically that the changes they entail do not result in lapses in adherence to information reporting requirements and the anti-money laundering statutes under Title 31 of the U.S. Code.

One of the advances that is gaining momentum within tribal casinos is the installation of slot machines that issue “paper payouts”. Instead of cash or tokens being generated from the slots, a coded piece of paper denoting the amount of the win is issued by the machine. In some cases the patron can insert the ticket into a similar machine and credits totaling the amount of the ticket will register, enabling the player to continue gaming. The patron may also “cash” the ticket. In the past, a cash payout has normally been handled at the cage. However, we have observed that several casinos are installing machines that hold a considerable amount of cash, and that have the capability of cashing out the ticket.

The casino may have control in programming the amount that the machine can pay out, but there is often no ability to record the identification of the person conducting the transaction. As a result, the casino may be at risk of violating requirements of Title 31, the Bank Secrecy Act if there is no way to keep track of how much money an individual patron may secure from these machines in a gaming day. The transactions that would normally be shown on the Multiple Transaction Log maintained at the cage would not be recorded. If a patron had won multiple slot jackpots in which a Form W-2G was not required, then cashed out credits that had accumulated, no aggregation would be done, and it is likely that the requirement to prepare a CTR-C could go undetected if the total wins in a gaming day were over \$10,000. Several casinos have addressed this area by ensuring that the machines have a pre-determined limit on the amount that can be independently transacted by the customer. That additional step can help ensure that Title 31 requirements can be met if the limit is properly set. A common limit appears to be \$3000. Any payout in excess of that amount requires the involvement of a floor employee who can then secure the information required for Title 31 purposes.

Casinos have the responsibility of making sure that Title 31 rules and regulations are met. Automated cash-out machines that are not capable of controlling large transactions by an individual may jeopardize the effectiveness of the casino’s Title 31 program, and may place the casino at risk in the event of an examination. When installing new technology such as this, the casino needs to ensure that the equipment has the capability of fully addressing all of the processes that were performed by cage and floor personnel, and in this case, has safeguards that ensure anti-money laundering statute requirements are met.

### Abusive Schemes

We continue to work with Tribes in identifying and addressing schemes that are surfacing in Indian country. If someone approaches you with a deal that seems “too good to be true”, or if you find evidence of abuses of tribal finances by former employees or consultants, please contact us via e-mail at [tege.schemes.itg@irs.gov](mailto:tege.schemes.itg@irs.gov). We want to partner with Tribes to prevent abuses, and protect tribal resources and the interests of tribal members.





## Earned Income Tax Credit

By John L. Walters

Recently we have seen exciting economic development activities in Indian Country. Tribal Officials are actively introducing new programs to help businesses get up and running. Revolving loan accounts and other business loans are being made available for start-up businesses. These loans often require specific business training, licenses, and business plans as a condition of the funding. New programs involve Tribal Business Information Centers (TBIC) and Economic Development offices. Potential grants, business training, and tax return preparation are available. Colleges and other local agencies are involved in training, volunteering, and working with these small businesses and their owners to ensure a better chance for long term success.

The information on page four of this newsletter is just one example of how these things are happening. Earned Income Tax Credits are available to many people whose incomes are under \$35,458 with two qualifying children, \$31,338 with one qualifying child, or \$12,490 with no children. Depending on your circumstances, these credits can be as much as \$4,300. That's an unexpected windfall for individuals and their home communities. This may also be an excellent opportunity for capital investment, asset matching funds programs, or as a debt settlement opportunity.

Tribal Chairmen and other officials are now actively involved in helping their people obtain these refunds. Part-time workers and many low income taxpayers, who do not always file returns, may leave many refunds unclaimed. Many areas are providing Volunteer Income Tax Assistance (VITA) for their local communities. This helps those with simple returns to stay right in the community and file their returns at no cost to them, while they actually provide a boost to those local economies.

Your communities can also take advantage of EITC as suggested. Two recently formed local coalitions as well as a national coalition have been working to publicize programs, VITA, and EITC workshops. These coalitions stress involvement of the Tribal programs as sources of knowledge and support for this work. Local Tribal business information centers, community colleges, economic development offices, and senior centers can work with various national concerns. IRS, FDIC, HUD, SBA, Congressional Offices, BIA, NIGA, USDA, Annie E. Casey Foundation, National Financial Education Coalition, and countless others provide open doors for this project.

If you have any questions, please feel free to call John Walters at (701)239-5400, Extension 253. John is the North Central States Manager for Indian Tribal Governments. He will work with you to understand what needs to be done to keep your EITC money at home.



## What to Do When You Receive a Mismatch Penalty Notice

Mismatch notices are generated by one of the Internal Revenue Service Campuses when the taxpayer identification number and name on an information return do not match either Social Security Administration or Internal Revenue Service records. There are two types of mismatch notices generated according to the information return that was filed by the payer.

**Letters CP2100 and CP2100A** - Form 1099-MISC mismatch notices are Letters CP2100 and CP2100A. The CP2100 package will contain a B Notice Letter. The payer must send the payee the B Notice within 15 days of receiving the CP2100 along with a blank Form W-9 for confirmation of the taxpayer identification number. The envelope must be clearly marked on the outside with the phrase ***“Important Tax Information Enclosed”***. The payer must provide return mail information to the payee or a pre-addressed return envelope. Make sure that the date, account number and back-up withholding rate are all on the B Notice before it is mailed to the payee. The payer must begin back-up withholding if the payee does not respond within 30 days to the B Notice.

If the payer receives a **second B Notice** on the same payee, the payer must issue the **second B Notice Letter**. This Notice requires the payee to contact the Social Security Administration on Form SSA-7028 and request that the Social Security Administration provide the proper social security number to the payer. If the incorrect tax identification number is an employer identification number, the payee must write to the Internal Revenue Service Entity Section where the payee normally files their income tax return. The payee must include a copy of the second B Notice and request that the IRS send Letter 147C to the payer. **Important Note: This information must be requested in writing. The confirmation must be received directly from SSA or the IRS in order to stop or prevent back-up withholding.** A detailed description of this process and the Form SSA-7028 may be found in Publication 1679, *A Guide to Backup Withholding for Missing and Incorrect Name/TINs*.

**Letter 972CG** - Casinos that receive mismatch notices concerning Form W-2G are sent Letter 972CG. The payer may contact the payee in one of three ways. The payee may be notified about the mismatch notice by letter, by telephone, or electronic mail. The payer must provide the payee with a W-9 to correct their taxpayer identification number regardless of which solicitation method it uses to notify the patrons of the mismatch notice. Please refer to Publication 1586, *Reasonable Cause Regulations and Requirements for Missing and Incorrect Name/TINs*, for full details concerning notification requirements.

*Cont'd on page 7*

To add your name or e-mail address to our mailing list, please contact us via e-mail at [Jeff.R.Clairmont@irs.gov](mailto:Jeff.R.Clairmont@irs.gov), or call Jeff Clairmont at (406)752-6149 ext 24



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The Letter 972CG is a **proposal** to assess penalties. The penalties are not assessed if there is reasonable cause to waive the penalties. The IRS may assess the penalties if the payer does not respond to Internal Revenue Service within 45 days of receiving the letter. The payer should contact the IRS if more than 45 days are needed to fully respond to the notice. The payer must check its records, solicit verification of addresses and taxpayer identification numbers from payees, and write back a response to the Letter 972CG.

Penalties for failure to furnish and failure to file correct information returns may be waived if the payer can show that the failure was due reasonable to cause and not willful neglect. Reasonable cause means that the payer acted in a responsible manner both before and after the failure occurred.

Acting in a responsible manner means that payer makes an initial solicitation (request) for a payee's name, address and taxpayer identification number. Once a mismatch notice is received the payer must check its records against the information furnished by the Internal Revenue Service. If the payer information matches the information on the mismatch notice the payer must contact the payee in one of the three ways mentioned in Publication 1586 in order to obtain the payee's correct taxpayer identification number and address. In many cases penalties have not been waived because the payer has not completed the follow-up actions required to demonstrate reasonable cause after being notified of the mismatch by the Social Security Administration or the Internal Revenue Service.

Often times mismatch notices are issued to a payer several years after the reportable transaction took place. For example, a payer asked a customer to complete Form W-9 and used the information supplied by the payee to fill out the Form W-2G in 2002. In 2004 the payer receives a Letter 972CG concerning the same payee. An employee of the payer attempts to telephone this person and finds the telephone number is no longer in service. The employee sends a written notification to the payee and receives the letter back marked "return to sender". The employee runs the payees name through the 2003 and 2004 payee records and does not find a match. The payee appears to no longer have a relationship with the payer. The payer is not required to try and contact the payee any further. The payer should respond to the Notice 972CG, stating that the exception to the requirement for the annual solicitation is met because the payee has a closed account. **However**, if the customer comes back in 2004 the whole verification process begins again. If you have further questions about this area, contact your ITG Specialist for assistance.



## Employment Taxes and the Trust Fund Recovery Penalty Awareness

If you are an employer, you must withhold federal income, social security, and Medicare taxes from your employees' wages or salaries. These taxes are called trust fund taxes and must be paid to the Internal Revenue Service through tax deposits or as payments made with the applicable returns.

If the trust fund taxes **willfully** aren't collected, are not truthfully accounted for and paid, or are evaded or defeated in any way, The IRS may charge a trust fund recovery penalty. This penalty is equal to the amount of the trust fund taxes evaded, not collected, not accounted for, or not paid to the IRS. The IRS also charge interest on the penalty.

The trust fund recovery penalty may apply to a person or persons the IRS decides is **responsible** for collecting, accounting for and paying the trust fund taxes and who acted **willfully** in not doing so. If the IRS can't immediately collect the taxes from the employer or business, we will decide who the **responsible** person or persons are and who acted **willfully**.

**"Willfully"** means voluntarily, consciously, and intentionally. A responsible person acts "willfully" if this person knows that the required actions are not taking place for any reason. Paying other business expenses instead of trust fund taxes is considered willful behavior.

Any person who had responsibility for certain aspects of the business and financial affairs of the employer (or business) may be a **responsible** person. A responsible person may be an officer or employee of a corporation, or a partner or employee of a partnership. This category may include accountants, trustees in bankruptcy, members of a board, banks, insurance companies, or sureties. The responsible person can even be another corporation, a volunteer director/trustee, or tribal council members. **Responsible** persons may include those who direct or have authority to direct the spending of business funds.

You can avoid the trust fund recovery penalty by making sure that all taxes are collected, accounted for, and paid to the IRS when required. Make your tax deposits and payments on time. At the end of each ITG Newsletter, tax calendars are provided for your use and to remind you of when your deposits are due. For more information on this issue contact the Indian Tribal Governments specialist in your area.

???Questions???

Contact your ITG Specialist, or our toll-free call site at 877-829-5500



# Federal Tax Calendar for First Quarter 2005

## January 2005

SUN	MON	TUE	WED	THU	FRI	SAT
						1
2	3 * Make a deposit 12/25-12/28  Stop advance pay- ments of EITC for any employee not filing a new Form W-5	4	5 * Make a deposit for 12/29-12/31	6	7 * Make a deposit for 1/1-1/4	8
9	10 Employees report December tip income to employers if \$20 or more	11	12 * Make a deposit for 1/5-1/7	13	14 * Make a deposit for 1/8-1/11	15
16	17	18 ** Make a deposit for December if under the monthly deposit rule	19	20	21 * Make a deposit for 1/12-1/14	22
23	24 * Make a deposit for 1/15-1/18	25	26 * Make a deposit for 1/19-1/21	27	28 * Make a deposit for 1/22-1/25	29
30	31 Give employees copies of their Forms W-2 for 2004, and give annual information statements (Forms	1099, 1098, 5498, and W-2G) to all recipients of reportable payments				

## February 2005

SUN	MON	TUE	WED	THU	FRI	SAT
		1	2 * Make a deposit for 1/26-1/28	3	4 * Make a deposit for 1/29-2/1	5
6	7	8	9 * Make a deposit for 2/2-2/4	10 Employees report January tip income to employers if \$20 or more	11 * Make a deposit for 2/5-2/8	12
13	14	15 ** Make a deposit for January if under the monthly deposit rule	16 * Make a deposit for 2/9-2/11	17	18 * Make a deposit for 2/12-2/15	19
20	21	22	23	24 * Make a deposit for 2/16-2/18	25 * Make a deposit for 2/19-2/22	26
27	28					

\*= Make a Payroll Deposit if you are under the semi-weekly deposit rule. \*\*  
= Make a Monthly Deposit if you qualify under that rule.

NOTE: Deposits made through EFTPS are due one day  
prior to the dates listed.

## March 2005

SUN	MON	TUE	WED	THU	FRI	SAT
		1	2 * Make a deposit for 2/23-2/25	3	4 * Make a deposit for 2/26-3/1	5
6	7	8	9 * Make a deposit for 3/2-3/4	10 Employees report February tip income to employers if \$20 or more	11 * Make a deposit for 3/5-3/8	12
13	14	15 ** Make a deposit for February if under the monthly deposit rule	16 * Make a deposit for 3/9-3/11	17	18 * Make a deposit for 3/12-3/15	19
20	21	22	23 * Make a deposit for 3/16-3/18	24	25 * Make a deposit for 3/19-3/22	26
27	28	29	30 * Make a deposit for 3/23-3/25	31		

\*= Make a Payroll Deposit if you are under the semi-weekly deposit rule.

\*\*= Make a Monthly Deposit if you qualify under that rule.

NOTE: Deposits made through EFTPS are due one day prior to the dates listed.

### Return Filing Dates

#### January 31st

- > File Form 941 for the 4th quarter of 2004. If all deposits paid on time and in full, file by February 10th.
- > File Form 940 for 2004 if liable for Federal Unemployment Tax (not participating or current with state unemployment tax). If all deposits paid on time and in full, file by February 10th.
- > File Form 730 and pay the tax on applicable wagers accepted during December.
- > File Form 945 for 2004. If all deposits paid on time and in full, file by February 10th.
- > File Form 943 for 2004 (agricultural entities). If all deposits paid on time and in full, file by February 10th.

#### February 28th

- > File information returns for all payments reported to recipients on Forms 1099, 1098, 5498, and W-2G, using Form 1096 as a transmittal. If filing these forms electronically, file by March 31st.
- > File Form W-3, along with copy A of Forms W-2 you issued for 2004. File by March 31st if filing electronically.
- > File Form 730 and pay the tax on applicable wagers accepted during January.
- > File Form 8027 if you are a large food and beverage establishment. File by March 31st if filing electronically.

#### March 31st

- > File Form 730 and pay the tax on applicable wagers accepted during February.